THE HON'BLE MR JUSTICE S.ANANDA REDDY

Writ Petition No.18373 of 2005

20-08-2005

Between:

Fishermen Cooperative Society, Nutchapoda Village

... PETITONER

AND

1. The Commissioner of Fisheriies, Mastya Bhavan, Santhinagar Colony, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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Writ Petition No.18373 of 2005

ORDER:

This writ petition is filed aggrieved by the action of the third respondent in passing the impugned order, dated 06.08.2005, under which, he directed the Assistant Registrar, District Cooperative Office, Ongole to conduct an enquiry and submit a report, as it would amount to successive enquiries with reference to same allegations in respect of petitioner-Society.

According to the petitioner-Society, as there were certain complaints made by some of the members, the third respondent passed orders dated 01.04.2005 for conducting an enquiry, pursuant to which, the Fisheries Development Officer (Coast), Ongole conducted an enquiry and submitted his report dated 28.04.2005. However, the third respondent, while exercising powers conferred on him under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), passed the impugned order dated 06.08.2005 appointing the Assistant Registrar, District Cooperative Office, Ongole to conduct the statutory enquiry, especially with reference to the constitution, working and financial position of the petitioner-Society.

The learned counsel for the petitioner relied upon judgments of this Court and contended that successive enquiries cannot be conducted, as it would vitiate the process of law. Therefore, it is contended that the impugned order is liable to be quashed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Fisheries appearing for the respondents.

The issue is whether the third respondent can pass the

impugned order ordering fresh enquiry while exercising powers conferred on him under Section 51 of the Act.

Admittedly, the third respondent on an earlier occasion appointed the Fisheries Development Officer (Coast), Ongole to conduct enquiry with reference to the petitioner-Society and even a report was submitted by the said Enquiry Officer on 28.04.2005. According to the petitioner-Society, if there are any omissions or commissions on its part, it is open to the third respondent to take action and if necessary, by conducting necessary enquiry. But, with reference to the report submitted by the Fisheries Development Officer, without passing any orders, the third respondent ordered for fresh enquiry by appointing another Enquiry Officer. The said action, according to the petitioner, is illegal in the light of the judgments of this Court.

The contention of the learned Government Pleader for Fisheries is that though an enquiry report was submitted by the Fisheries Development Officer, as the said report is not complete and full, the third respondent is at liberty to order for fresh enquiry either by appointing the same Enquiry Officer or by appointing some other Enquiry Officer. Hence, the petitioner cannot object the same.

Prima facie, the third respondent while passing the impugned order did not specify the grounds, which prompted him to order fresh enquiry. Therefore, it would be appropriate for the third respondent to consider the report submitted by the Fisheries Development Officer dated 28.04.2005 and if necessary calling for records from the petitioner-Society and, then only, pass appropriate orders. If the third respondent finds that there are any omissions or lapses on the part of the Fisheries Development Officer in conducting the enquiry and if there are no clear and categorical findings with reference to any of the allegations made, he can pass appropriate orders.

Under the above circumstances, the impugned order is set aside and the matter is restored to the file of the third respondent to consider the report submitted by the Fisheries Development Officer

(Coast), Ongole dated 28.04.2005 and to take appropriate action in accordance with law.

The writ petition is accordingly disposed of. No costs.

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20.08.2005

VGB